

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

----- x

NICHOLAS BERGERON and NICK QUATTROCIOCCHI,  
individually and on behalf of others similarly  
situated,

Plaintiffs,

-against- Case No. 6:20-cv-06283

ROCHESTER INSTITUTE OF TECHNOLOGY,

Defendant.

----- x

REMOTE VIDEOCONFERENCE

November 4, 2021  
10:07 a.m.

EXAMINATION BEFORE TRIAL of NICHOLAS BERGERON,  
the Plaintiff, by the Defendant, in the  
above-entitled action, held at the above time, taken  
before Joi Rafkind, a shorthand reporter and Notary  
Public within and for the State of New York.

MAGNA LEGAL SERVICES  
(866) 624-6221  
[www.MagnaLS.com](http://www.MagnaLS.com)

1     though?

2           A.     A lot of brick.

3           Q.     Anything else?

4           A.     No, not in particular.

5           Q.     You gave a list of three schools that you  
6     were interested in and visited, did you apply to all  
7     of these schools?

8           A.     I did.

9           Q.     Did you apply to any of these schools for  
10    early admission?

11          A.     I don't recall.

12          Q.     Did you apply to any online schools or  
13    online programs?

14          A.     No.

15          Q.     At which colleges were you accepted?

16          A.     RIT and MCLA.

17          Q.     Do you recall when you applied to RIT?

18          A.     Sometime in the fall of my senior year.

19          Q.     If I could ask you to flip through  
20    Bergeron deposition Exhibit 3.

21          A.     Yup.

22          Q.     This is a composite document that runs  
23    from Bates RIT1097 through RIT1107. Do you  
24    generally recognize these documents?

25          A.     Yes, they look familiar, as familiar as

1 they can.

2 Q. Looking, when you say as familiar as you  
3 can, what do you mean, just given the passage of  
4 time?

5 A. Yes, I haven't looked at these in a  
6 number of years.

7 Q. Understood. So these are documents from  
8 2015, 2014, 2015 time period, correct?

9 A. Yes.

10 Q. And they are all connected with your  
11 application to RIT?

12 A. It looks like that, yes.

13 Q. Okay. So the first document with the  
14 Bates number RIT1097, when I say Bates number do you  
15 know what that means?

16 A. It's the number at the bottom right of  
17 the page.

18 Q. Exactly, good, just wanted to make sure  
19 we're on the same page. First page, RIT Bates 1097,  
20 that indicated that as of November 12, 2014 you had  
21 started your process applying to RIT?

22 A. Yes.

23 Q. And then the next page, RIT1098, and  
24 continuing through RIT1105, this is the application  
25 that you filed for admission to RIT, correct?

1 A. Yes.

2 Q. Did you write out this application?

3 A. I did.

4 Q. Did anyone write any portions of it for  
5 you?

6 A. I don't believe so. It's possible that  
7 my parent helped me with my application, but I did  
8 it myself.

9 Q. Flipping to page RIT1106, this indicates  
10 that as of January 26, 2015 you had completed your  
11 application for admission to RIT and filed it,  
12 correct?

13 A. Yes.

14 Q. Sir, why did you decide to apply to RIT?

15 A. From what I can tell it had a great cyber  
16 security program, of which there were not many at  
17 the time, and the co-op education was, it looked  
18 very appealing to me.

19 Q. Any other reasons?

20 A. Nope, primarily the education.

21 Q. When you say primarily the education, you  
22 mean the cyber security program and the co-op  
23 opportunity?

24 A. Yes.

25 Q. Anything else?

1 A. Not that I recall.

2 Q. We'll talk a little bit about co-op, but  
3 can you describe generally what co-op means in  
4 connection with RIT?

5 A. Yes, so a co-op is essentially an  
6 internship, but it has to be in your field of study,  
7 it has to be paid, and it has to be approved by the  
8 school.

9 Q. Why was that appealing to you?

10 A. So it gets students hands-on experience  
11 that will kind of like boost their profile when they  
12 are looking for jobs after graduation.

13 Q. Any other reasons?

14 A. Nope.

15 Q. Had you in fact participated in several  
16 co-ops during your time at RIT, correct?

17 A. Yes.

18 Q. We'll talk about those in a little bit.  
19 Did you review any RIT written materials before you  
20 filed your application to RIT?

21 A. I don't remember.

22 Q. Did you review RIT's website before you  
23 applied?

24 A. Probably.

25 Q. Do you recall what portions of RIT's

1 website you recall you reviewed?

2 A. Probably within the academic side of the  
3 cyber security program.

4 Q. Anything else that you remember  
5 reviewing?

6 A. Probably the tuition schedule.

7 Q. Anything else?

8 A. Not that I recall.

9 Q. Did anything that you reviewed on RIT's  
10 website promise that instruction at RIT would be  
11 exclusively in person?

12 A. No.

13 Q. Did you receive any emails from anyone at  
14 RIT before you applied?

15 A. I don't recall.

16 Q. Did you receive any letters from anyone  
17 at RIT before you applied?

18 A. I don't recall.

19 Q. Did you review any RIT brochures or  
20 pamphlets before you applied?

21 A. Probably.

22 Q. What do you recall about that?

23 A. I'm just thinking it's likely that I  
24 received some type of brochure or pamphlet from RIT,  
25 one year approaching at that time.

1 Q. You said you sign a lot of contracts?

2 A. Yes.

3 Q. What do you mean by that?

4 A. You end up signing a lot of stuff when  
5 you go to school.

6 Q. And you claim that RIT breached one of  
7 those things that you signed?

8 A. Yes.

9 Q. But you don't know what contract you  
10 claim RIT breached?

11 A. Yes, I don't recall which one  
12 specifically.

13 Q. You understand that you're the plaintiff  
14 in this lawsuit, correct?

15 A. Yes.

16 Q. One of the claims you're bringing against  
17 RIT is breach of contract --

18 A. Yes.

19 Q. -- correct? But you can't testify to  
20 what contract you claim RIT breached?

21 A. I would imagine it was probably --

22 MR. ABBOTT: Objection.

23 Q. You can continue your answer.

24 A. I don't have an answer.

25 Q. So you can't testify here today to what



1 contract you're claiming in this case that RIT  
2 breached?

3 MR. ABBOTT: Same objection.

4 Q. Do you have an answer to that question?

5 MR. ABBOTT: If you understand the  
6 question you may answer this question, but if  
7 you don't understand the question please ask  
8 Mr. Burns if he can maybe rephrase the question  
9 so you can better understand.

10 A. Do you want to rephrase the question for  
11 me, please.

12 Q. Sure. I'll try it again. So you are the  
13 plaintiff, you're suing RIT in this case, correct?

14 A. Yes.

15 Q. And one of the causes of action in your  
16 lawsuit is you say RIT breached a contract with you,  
17 correct?

18 A. Yes.

19 Q. And I'm asking you what was that  
20 contract?

21 A. I believe it's the student financial  
22 responsibility agreement.

23 Q. So you believe that RIT breached the  
24 student financial responsibility agreement?

25 A. Yes.

1 Q. Are you claiming in this case that RIT  
2 breached any other contracts with you?

3 A. Not that I recall, but I don't know the  
4 details of every single contract top of my head.

5 Q. But I'm just asking you about your  
6 claims, you're the plaintiff in this case, you're  
7 bringing contract claims against us, you identified  
8 one contract that you say RIT breached, the SFRA,  
9 correct?

10 A. Yes.

11 Q. Any other contracts on which you're  
12 basing your claims here?

13 MR. ABBOTT: Objection, vague.

14 Q. You can go ahead and answer,  
15 Mr. Bergeron.

16 A. No.

17 Q. So in what manner do you claim that RIT  
18 breached the student financial responsibility  
19 agreement?

20 A. RIT did not provide all the things that  
21 were, that were promised to me as part of my on  
22 campus education.

23 Q. So when you say the student financial  
24 agreement, you're referring to what we looked at a  
25 while back as Bergeron Exhibit 5, correct?

1 A. Yes.

2 Q. And if you could identify for me the  
3 language in this document that you, the agreement in  
4 this document that you claim RIT breached?

5 A. I'll have to pull it up.

6 Q. Please do.

7 A. I don't believe that it's the entirety of  
8 the contract.

9 Q. Why do you say that?

10 A. I believe that I'm entitled to on campus  
11 learning.

12 Q. I'm not sure I understand your response.  
13 Do you believe that, do you not believe that  
14 Bergeron Exhibit 5 is the entirety of your student  
15 financial responsibility agreement with RIT for the  
16 spring 2020 semester?

17 A. I do, but I don't believe it's the  
18 entirety of the contracts I signed.

19 Q. So in addition, tell me if I'm getting  
20 this wrong, in addition to the student financial  
21 responsibility agreement, you claim that there were  
22 other contracts that you had with RIT that RIT  
23 breached?

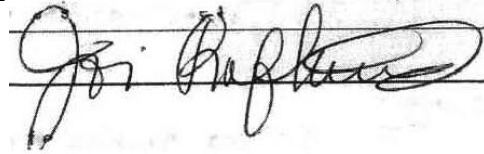
24 A. Possibly. No. But I don't know what  
25 he's talking about.

1 C E R T I F I C A T E

2 I, JOI RAFKIND, a shorthand reporter and  
3 Notary Public within and for the State of New York,  
4 do hereby certify:

5 That the witness whose testimony is  
6 hereinbefore set forth was duly sworn by me, and the  
7 foregoing transcript is a true record of the  
8 testimony given by such witness.

9 I further certify that I am not related to  
10 any of the parties to this action by blood or  
11 marriage, and that I am in no way interested in the  
12 outcome of this matter.

13   
14

JOI RAFKIND

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25